

§ 172.42

from which further relief is requested or within 60 days following an administrative or judicial decision with respect to issues serving as the basis for the claim for liquidated damages (whichever is later) unless another time to file such a supplemental petition is prescribed in the decision. A supplemental petition may be filed whether or not the mitigated amount designated in the decision on the original petition is paid.

§ 172.42 Supplemental petition decision authority.

(a) *Decisions of Fines, Penalties, and Forfeitures Officers.* Supplemental petitions filed on cases where the original decision was made by the Fines, Penalties, and Forfeitures Officer, will be initially reviewed by that official. The Fines, Penalties, and Forfeitures Officer may choose to grant more relief and issue a decision indicating additional relief to the petitioner. If the petitioner is dissatisfied with the further relief granted or if the Fines, Penalties, and Forfeitures Officer decides to grant no further relief, the supplemental petition will be forwarded to a designated Headquarters official assigned to a field location for review and decision.

(b) *Decisions of Customs Headquarters.* Supplemental petitions filed on cases where the original decision was made by the Chief, Penalties Branch, Office of Regulations and Rulings, Customs Headquarters, will be forwarded to the Director, International Trade Compliance Division, for review and decision.

(c) *Authority of Assistant Commissioner.* Any authority given to any Headquarters official by this part may also be exercised by the Assistant Commissioner, Office of Regulations and Rulings, or his designee.

§ 172.43 Waiver of statute of limitations.

The deciding Customs official always reserves the right to require a waiver of the statute of limitations executed by the charged party or parties as a condition precedent before accepting a supplemental petition in any case in which less than one year remains before the statute will be available as a defense to all or part of that case.

19 CFR Ch. I (4-1-03 Edition)

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

Sec.

173.0 Scope.

173.1 Authority to review for error.

173.2 Transactions which may be reviewed and corrected.

173.3 Voluntary reliquidation.

173.4 Correction of clerical error, mistake of fact, or inadvertence.

173.4a Correction of clerical error prior to liquidation.

173.5 Review of entry covering household for personal effects.

AUTHORITY: 19 U.S.C. 66, 1501, 1520, 1624.

SOURCE: T.D. 70-181, 35 FR 13429, Aug. 22, 1970, unless otherwise noted.

§ 173.0 Scope.

This part deals with the general authority of review, the authority to reliquidate voluntarily, the authority to correct for clerical error, mistake of fact, or other inadvertence under section 520(c)(1), Tariff Act of 1930, as amended, the authority to review an entry of household or personal effects, and the power to reliquidate an entry on account of fraud.

§ 173.1 Authority to review for error.

Port directors have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. This authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer.

[T.D. 70-181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 79-221, 44 FR 46830, Aug. 9, 1979]

§ 173.2 Transactions which may be reviewed and corrected.

The port director may review transactions for correctness, and take appropriate action under his general authority to correct errors, including those in appraisement where appropriate, at the time of:

(a) Liquidation of an entry;

(b) Voluntary reliquidation completed within 90 days after liquidation;

(c) Voluntary correction of an exaction within 90 days after the exaction was made;

(d) Reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change is in order; or

(e) Modification, pursuant to a valid protest, of a transaction or decision which is neither a liquidation or reliquidation.

§ 173.3 Voluntary reliquidation.

(a) *Authority to reliquidate.* The port director within 90 days from the date notice of the original liquidation is given to the importer, consignee, or agent, may reliquidate on his own initiative a liquidation or a reliquidation to correct errors in appraisement, classification, or any other element entering into the liquidation or reliquidation, including errors based on misconstruction of applicable law. A voluntary reliquidation may be made even though a protest has been filed, and whether the error is discovered by the port director or is brought to his attention by an interested party.

(b) *Notice of reliquidation.* Notice of a voluntary reliquidation shall be given in accordance with the requirements for giving notice of the original liquidation.

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

(a) *Authority to review and correct.* Even though a valid protest was not filed, the port director, upon timely application, may correct pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), a clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section, by reliquidation or other appropriate action.

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended, (19 U.S.C. 1520(c)(1)), may be made in any entry, liquidation, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence:

- (1) Does not amount to an error in the construction of a law;
- (2) Is adverse to the importer; and
- (3) Is manifest from the record or established by documentary evidence.

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section shall be brought to the attention of the director of the port of entry within 1 year after the date of liquidation or exaction. The party requesting reliquidation under section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)) shall state, to the best of his knowledge, whether the entry for which correction is requested is the subject of a drawback claim, or whether the entry has been referenced on a certificate of delivery or certificate of manufacture and delivery so as to enable a party to make such entry the subject of drawback (see §§181.50(b) and 191.81(b) of this chapter).

(d) *"Liquidation" includes reliquidation.* "Liquidation" when used in section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), and in this section, includes reliquidation of an entry.

[T.D. 70-181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 79-221, 44 FR 46830, Aug. 9, 1979; T.D. 98-16, 63 FR 11005, Mar. 5, 1998]

§ 173.4a Correction of clerical error prior to liquidation.

Pursuant to section 520(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1520(a)(4)), the port director may, prior to liquidation of an entry, take appropriate action to correct a clerical error that resulted in the deposit or payment of excess duties, fees, charges, or exactions.

[T.D. 85-123, 50 FR 29957, July 23, 1985]

§ 173.5 Review of entry covering household or personal effects.

An error in the liquidation of an entry covering household or personal effects may be corrected by the port director even though a timely protest was not filed if an application for refund is filed with the port director within 1 year after the date of the entry and no waiver of compliance with applicable regulations is involved other than a waiver which the port director has authority to grant. Where the port director has no authority to grant the waiver, the application shall be referred to the Commissioner of Customs.